

FILED

IN THE SECOND CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE
TWENTIETH JUDICIAL DISTRICT AT NASHVILLE

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RICHARD R. ROOKER, CLERK

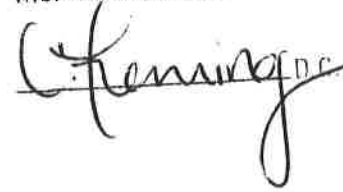
STATE OF TENNESSEE,)
ex rel. ROBERT E. COOPER, JR.,)
ATTORNEY GENERAL and REPORTER,)

Plaintiff,)

v.)

HRC MEDICAL CENTERS, INC., a Tennessee)
corporation, *formerly known as* HAIR)
RESTORATION CENTERS OF TENNESSEE,)
INC., et al.)

Defendants.)



JURY DEMAND

Case No. 12C4047

AGREED FINAL JUDGMENT AND PERMANENT INJUNCTION REGARDING
MICHAEL MONTEMURRO

1. Plaintiff, the State of Tennessee, by and through Robert E. Cooper, Jr., the Attorney General and Reporter, at the request of Gary Cordell, the Director of the Division of Consumer Affairs of the Department of Commerce and Insurance, John C. McLemore in his capacity as *Pendente Lite* Receiver for Defendant HRC Medical Centers, Inc., HRC Management Midwest, LLC, HRC Medical Centers Holdings, LLC, HRC Management, LLC, and the Cardinal Revocable Trust, and Defendant Michael Montemurro, individually and doing business as MadMac Consulting, as evidenced by their signatures, do consent to the entry of this Agreed Final Judgment ("Judgment") and its provisions.

2. For purposes of this Judgment, Defendant Montemurro shall mean Michael Montemurro, individually, the doing business as name MadMac Consulting, LLC, and his agents, and representatives.

3. Defendant Montemurro enters into this agreement solely to avoid the expense and uncertainty with continued litigation and does not admit any wrongdoing or liability.

4. Defendant Montemurro hereby accepts and expressly waives any defect in connection with service of process issued to Defendant Montemurro by Plaintiff.

5. This Judgment is entered into voluntarily by Defendant Montemurro as his own free and voluntary act, and with full knowledge and understanding of the nature of the proceedings and the obligations and duties imposed upon Defendant by this Judgment. Defendant Montemurro consents to its entry without further notice.

6. Defendant Montemurro avers that no offers, agreements or inducements of any nature whatsoever have been made to it by the Plaintiff or their attorneys or any employee of the Tennessee Attorney General's Office or the Division of Consumer Affairs to procure this Judgment or to the Receiver or his agents or representatives.

7. Aside from any action stemming from compliance with this Judgment, Defendant Montemurro waives any right to add, alter, amend, appeal, petition for *certiorari*, or move to reargue or rehear or be heard in connection with any judicial proceeding upon this Judgment, any right it may possess to a jury trial, and any and all challenges in law or equity to the entry of the Judgment by the courts. If the Court elects to hold any hearing on this Judgment, a representative of the Attorney General's office will briefly summarize the settlement for the court. Defendant Montemurro through counsel agrees to support the Judgment and its terms at

any such hearing for approval. Defendant Montemurro expressly waives any argument that the injunction set forth below is deficient because it does not contain findings of fact and conclusions of law.

8. In the event the Court shall not approve this Judgment, it shall be of no force and effect against the signatories.

9. As set forth below, this Judgment shall bind Defendant Montemurro and shall be binding on any and all future purchasers, merged parties, inheritors, or other successors in interest.

JURISDICTION

10. Jurisdiction of this Court over the subject matter and over Defendant Montemurro for the purpose of entering into and enforcing this Judgment is admitted. Jurisdiction is retained by this Court for the purpose of enabling the State to apply for such further orders and directions as may be necessary or appropriate for the construction, modification, or execution of this Judgment, including enforcement of compliance therewith and assessment of penalties for violation(s) thereof. Defendant Montemurro agrees to pay all court costs and reasonable attorneys' fees and any costs associated with any successful petitions to enforce any provision of this Judgment against Defendant Montemurro.

VENUE

11. Pursuant to Tenn. Code Ann. § 47-18-108(a)(3), venue as to all matters between the signatories relating hereto or arising out of this Judgment is solely in the Second Circuit Court, Davidson County, Tennessee.

DEFENDANT MONTEMURRO

12. Defendant Montemurro warrants and represents that Defendant Michael Montemurro is the name of the proper party to this Judgment and the true legal name of the individual entering into this Judgment.

13. Defendant Montemurro represents and warrants that this Judgment is the result of good faith negotiations, and agrees that the Judgment and terms hereof are fair and reasonable.

14. Defendant Montemurro represents and warrants that he, or anyone acting on his behalf, has not sold or distributed any information from the electronic records system ("ERS"), owned by HRC Medical Centers, Inc. and used by Defendant Montemurro, to any third party from the date of filing the State's Amended Complaint through the date of entry of this Judgment.

15. Defendant Montemurro represents and warrants he will cooperate with the State and the Receiver in the continuing litigation, and afterwards in the event that restitution is provided to consumers. Specifically, Defendant Montemurro agrees to provide documents, truthful and accurate testimony, and reasonable assistance relating to the transfers or obligations identified in the State's pleadings concerning the remaining Defendants or any subsequently added defendant if called upon by the State or the Receiver to do so, at no cost to the State or Receiver. To the extent testimony, through depositions or interviews, is necessary, the testimony shall be taken in the state of residence of Defendant Montemurro.

16. Defendant Montemurro acknowledges that he understands that the State of Tennessee and this Court expressly rely upon all representations and warranties in this Judgment, including, but not limited to, those in paragraphs 12-15 above and elsewhere in this Judgment, and that if any one or more is false or inaccurate in any manner, the State has the right to vacate

or set aside this Judgment, *inter alia*, in whole or in part, and to move that Defendant Montemurro be held in contempt or that sanctions and remedies be imposed under other law, regulation, or rule.

PERMANENT HORMONE BUSINESS BAN IN TENNESSEE

17. Defendant Montemurro, individually, through another entity, through his doing business as name MadMac Consulting, LLC, or through an agent or representative agrees to never conduct or transact the business of providing hormone replacement therapy, directly or indirectly from or within the State of Tennessee again. For purposes of this provision, “conduct or transact business of providing hormone replacement therapy” shall mean offering, advertising, or providing any biologically-identical, synthetic, or derivative of any hormone found in humans or otherwise, including but not limited to estrogen, progesterone, testosterone, dehydroepiandrosterone, or human chorionic gonadotropin from or within the territorial borders of the State of Tennessee. As part of this provision, Defendant Montemurro agrees not to sell, distribute, or otherwise use any documents or information containing contact or patient information for “bio-identical” hormone replacement therapy customers at any clinic in Tennessee for any purpose except to comply with a court order, pursuant to subpoena, or as requested by a governmental unit. Further, Defendant Montemurro agrees not to sell or take steps to sell any “bio-identical” hormone replacement therapy consumer accounts receivable or related contracts or agreements for any other clinic in Tennessee to a third party, including a collection agency. For purposes of enforcement of this provision, the State will provide Defendant Montemurro ten days advance notice of any contemplated enforcement action based on this provision unless the Director of the Division of Consumer Affairs, at his or her sole

discretion following consultation with the Tennessee Attorney General, determines that the health and/or safety of consumers would be adversely affected by a delay in proceedings.

MONETARY COMPONENT

18. Defendant Montemurro shall pay \$20,000 in four \$5,000 increments to be paid to the Receiver no later than 30 days, 60 days, 90 days, and 120 days from the date of the entry of this Judgment. Nothing shall prohibit Defendant Montemurro from paying the total amount sooner than 120 days from the date of entry of this Judgment.

19. The monies received hereunder shall be applied to HRC Medical Centers, Inc. receivership estate and distributed as directed by orders of the Court.

RELEASES

20. Upon the receipt of full payment of the monetary component set forth in paragraph 18, the State of Tennessee *ex rel.* Robert E. Cooper, Jr. through the Division of Consumer Affairs agrees to release Defendant Montemurro individually and doing business as MadMac Consulting, LLC, from any and all causes of action set forth in the State's First Amended Complaint or causes of action, including under the Tennessee Consumer Protection Act of 1977 as amended, the Uniform Fraudulent Transfer Act, and fraudulent conveyance, that could have been asserted in the First Amended Complaint based on the marketing of "bio-identical" hormone replacement therapy or based on assets transferred or obligations incurred by Defendant Montemurro prior to the entry of this Judgment. Specifically withheld from the State's release are claims, to the extent that they exist, that the State of Tennessee through the Division of Consumer Affairs does not have the authority to release, including but not limited to any tax claims, private rights of action, professional licensure claims, environmental claims, or criminal claims.

21. Upon the receipt of full payment of the monetary component set forth in paragraph 18, the Receiver, on behalf of the receivership estates of Defendant HRC Medical Centers, Inc., Defendant HRC Management Midwest, LLC, Defendant HRC Management, LLC, Defendant HRC Medical Centers Holdings, LLC, and the Cardinal Revocable Trust, agrees to release Defendant Montemurro, individually and doing business as MadMac Consulting, LLC, from any and all causes of action that he may possess based on conduct that occurred prior to entry of this Judgment.

22. Defendant Montemurro, individually and doing business as MadMac Consulting, LLC, shall release any and all claims, counterclaims, or causes of action that it or he could have asserted against the State of Tennessee, any entity or employee of the State of Tennessee, or the Receiver in this action.

PROVISION OF ERS DATA AND PROPERTY

23. By August 12, 2013, the Receiver shall provide full access to the data contained on the ERS for Defendant Montemurro's former HRC Medical facility located in Tampa, Florida. Before August 12, 2013, Defendant Montemurro shall be responsible for obtaining a server to house the data and for arranging for the data to be copied under this provision.

GENERAL PROVISIONS

24. The acceptance of this Judgment by the State shall not be deemed approval by the State of any of Defendant Montemurro's advertising or business practices. Further, neither Defendant Montemurro nor anyone acting on his behalf shall state or imply or cause to be stated or implied that the State of Tennessee, the Attorney General, the Department of Commerce and Insurance, the Division of Consumer Affairs or any other governmental unit of the State of

Tennessee has approved, sanctioned or authorized any practice, act, advertisement or conduct of Defendant Montemurro.

25. Except as otherwise provided under law, this Judgment may only be enforced by its signatories and this Court.

26. The titles and headers to each section of this Judgment are for convenience purposes only and are not intended by the signatories to lend meaning to the actual provisions of the Judgment.

27. Nothing in this Judgment shall limit the Attorney General's right to obtain information, documents or testimony from Defendant Montemurro pursuant to any state or federal law, regulation, or rule.

28. Nothing in this Judgment shall be construed to limit the authority of the Attorney General to protect the interests of the State or the people of the State of Tennessee. In addition, this Judgment shall not bar the State, or any other governmental entity from enforcing laws, regulations or rules against Defendant Montemurro.

29. Nothing in this Judgment constitutes an agreement by the State of Tennessee concerning the characterization of the amounts paid hereunder for purposes of any proceeding under the Internal Revenue Code or any state tax laws.

30. Defendant Montemurro hereby expressly waives and relinquishes any and all rights, remedies, appeals or other interests that he may possess to a jury trial or any derivative rights that might flow from a trial by jury under the Tennessee Constitution or United States Constitution or any other law, regulation or rule.

31. No waiver, modification, or amendment of the terms of this Judgment shall be valid or binding unless made in writing, signed by the signatory to be charged, approved by this

Court and then only to the extent specifically set forth in such written waiver, modification or amendment.

32. Any failure by any signatory to this Judgment to insist upon the strict performance by any other signatory of any of the provisions of this Judgment shall not be deemed a waiver of any of the provisions of this Judgment, and such party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Judgment and the imposition of any applicable penalties, including but not limited to contempt, civil penalties as set forth in Tenn. Code Ann. § 47-18-108(c) and/or the payment of attorneys fees to the State and other applicable state law.

33. If any clause, provision or section of this Judgment shall, for any reason, be held illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall not affect any other clause, provision or section of this Judgment and this Judgment shall be construed and enforced as if such illegal, invalid or unenforceable clause, section or other provision had not been contained herein.

34. Time shall be of the essence with respect to each provision of this Judgment that requires action to be taken by any signatory within a stated time period or upon a specified date.

35. Nothing in this Judgment shall be construed to waive any claims of sovereign immunity the State may have in any action or proceeding.

36. This Judgment sets forth the entire agreement between the signatories, and there are no representations, agreements, arrangements, or understanding, oral or written, between the signatories relating to the subject matter of this Judgment which are not fully expressed hereto or attached hereto.

37. Defendant Montemurro will not participate, directly or indirectly, in any activity that results in a separate entity or corporation engaging in acts or practices in whole or in part in the State of Tennessee which are prohibited in this Judgment or for any other purpose which would otherwise circumvent any part of this Judgment or the spirit or purposes of this Judgment.

38. Defendant Montemurro agrees that this Judgment does not entitle Defendant Montemurro to seek or to obtain attorneys' fees as a prevailing party under any statute, regulation or rule, and Defendant Montemurro further waives any right to attorneys' fees that may arise under such statute, regulation or rule.

39. Defendant Montemurro further agrees to execute and deliver all authorizations, documents and instruments which are necessary to carry out the terms and conditions of this Judgment.

40. This Judgment may be executed in any number of counterparts and by different signatories on separate counterparts, each of which shall constitute an original counterpart hereof and all of which together shall constitute one and the same document. One or more counterparts of this Judgment may be delivered by facsimile or electronic transmission with the intent that it or they shall constitute an original counterpart thereof.

41. Defendant Montemurro does not admit that the facts as alleged in the First Amended Complaint filed in this action are true but understands that for purposes of this document only that they shall be taken as true in a non-dischargeability action filed by the State in any bankruptcy proceeding initiated within 120 days of the entry of this Judgment.

COMPLIANCE WITH ALL LAWS

42. Nothing in this Judgment shall be construed as relieving Defendant Montemurro of the obligation to comply with all state and federal laws, regulations or rules, nor shall any of

the provisions of this Judgment be deemed to be permission to engage in any acts or practices prohibited by such law, regulation, or rule.

PRIVATE RIGHT OF ACTION

43. Aside from a set-off as to actual monies received, nothing in this Judgment shall be construed to affect any private right of action that a consumer, person, entity, or by any local, state, federal or other governmental entity, may hold against Defendant Montemurro.

PAYMENT OF COURT COSTS

44. No costs shall be taxed to the State as provided by Tenn. Code Ann. Section 47-18-116. Further, no discretionary costs shall be taxed to the State. All assessment of court costs shall be determined at the conclusion of the case to the Defendants who are parties at that time.

IT IS SO ADJUDGED AND DECREED.

Entered: July __, 2013 at __: __ .m.




JUDGE AMANDA McCLENDON
SECOND CIRCUIT COURT
DAVIDSON COUNTY
TWENTIETH JUDICIAL DISTRICT


I hereby certify that this is a true copy
of original instrument filed in my office
this 30 day of JULY 2013
By RICHARD R. ROOKER Clerk
C. Leming
Deputy Clerk

**JOINTLY APPROVED AND
SUBMITTED FOR ENTRY:**

FOR THE TENNESSEE ATTORNEY GENERAL:



ROBERT E. COOPER, JR.
Attorney General and Reporter
B.P.R. No. 10934



BRANT HARRELL, Assistant Attorney General
B.P.R. No. 024470
CAROLYN SMITH, Senior Counsel
B.P.R. No. 017166
State of Tennessee
Office of the Attorney General
Consumer Advocate & Protection Division
Post Office Box 20207
Nashville, TN 37202-0207
(615) 741-3549
Facsimile: (615) 532-2910
brant.harrell@ag.tn.gov

FOR THE RECEIVER:

John C. Mclemore Jr. Brant Hanell
with permission

JOHN C. McLEMORE

B.P.R. No. 3430

Garfinkle, McLemore, and Young, PLLC

2000 Richard Jones Road, Suite 250

P.O. Box 158249

Nashville, Tennessee 37215

(615) 383-9495

Facsimile: (615) 292-9848

mclemore@gmylaw.com

**FOR DEFENDANT MONTEMURRO, individually and doing business as MADMAC
CONSULTING, LLC**



PETER STRIANSE, ESQ., B.P.R. No. 007293

Tune, Entrekin, and White, P.C.

315 Deaderick Street

Nashville, Tennessee 37238

(615) 244-2770

ps triana se@tewlaw.com

A handwritten signature in black ink, appearing to read 'Michael Montemurro', written over a horizontal line.

MICHAEL MONTEMURRO

Individually and Doing Business as MadMac Consulting, LLC